

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the matter of	)	
	)	
Petition for Declaratory Ruling that the	)	
Provision of INTELSAT Space Segment by	)	
COMSAT is not an Interstate Service for	)	
Purposes of the TRS Fund	)	
	)	
Application for Review by	)	
COMSAT Corporation	)	
	)	
Telecommunications Services for Individuals	)	
with Hearing and Speech Disabilities, and the	)	CC Docket No. 90-571
Americans with Disabilities Act of 1990	)	

ORDER

Adopted: April 16, 2003

Released: April 24, 2003

By the Commission:

1. In this Order, we grant an Application for Review filed by COMSAT Corporation, acting through its business unit COMSAT World Systems (COMSAT).<sup>1</sup> COMSAT challenges a ruling by the former Common Carrier Bureau (Bureau), which concluded that COMSAT is required to contribute to the Telecommunications Relay Services (TRS) Fund a portion of its revenues from the lease of satellite space segment capacity.<sup>2</sup> COMSAT also seeks a refund of its prior TRS Fund contributions based upon revenues from the lease of satellite space segment capacity.<sup>3</sup> We find that, because the lease of space segment capacity does not constitute a telecommunications service, COMSAT was not required to contribute to the TRS Fund on the basis of such services. We therefore grant the application for review, and order that COMSAT be refunded its prior TRS Fund contributions based on the provision of leased satellite space segment capacity.

<sup>1</sup> *Petition for Reconsideration of a Bureau Ruling that the Provision of INTELSAT Space Segment by COMSAT is an Interstate Service for Purposes of the TRS Fund*, Application for Review or, in the alternative, a Waiver, filed March 20, 1995 (Application for Review).

<sup>2</sup> Letter from James Keegan, Chief, Domestic Facilities Division, Common Carrier Bureau, Federal Communications Commission, to Howard Polsky, COMSAT World Systems, re: COMSAT Corporation TRS Fund contributions, dated February 15, 1995 (Bureau Decision). The Common Carrier Bureau recently was renamed the Wireline Competition Bureau pursuant to an agency reorganization.

<sup>3</sup> See Application for Review.

## I. BACKGROUND

2. Title IV of the Americans with Disabilities Act of 1990, codified at 47 U.S.C. § 225, directed the Commission to ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech impaired individuals in the United States.<sup>4</sup> The Commission initially implemented this mandate in three orders. In the *TRS I Order*, the Commission adopted rules identifying the services that telecommunications carriers must provide to the hearing and speech impaired.<sup>5</sup> In the *TRS II Order*, the Commission adopted a shared funding mechanism to enable carriers to recover the cost of providing TRS.<sup>6</sup> In the *TRS III Order*, the Commission established the TRS Fund, currently administered by the National Exchange Carrier Association (NECA), to reimburse TRS providers for the costs of providing interstate TRS.<sup>7</sup> The Commission further provided that all carriers providing interstate telecommunications services must contribute to the TRS Fund on the basis of their interstate end-user telecommunications revenues, including the "interstate portion" of services such as "satellite [and] international . . . services . . ."<sup>8</sup>

3. On September 24, 1993, COMSAT mailed to NECA its first contribution to the TRS Fund based on its provision of leased satellite space segment capacity.<sup>9</sup> This service involves leasing to an international telecommunications carrier the use of a satellite communications link to an earth-bound station owned by the carrier.<sup>10</sup> In an accompanying

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<sup>4</sup> See generally Pub. L. 101-336, 104 Stat. 327, 366-69 (July 26, 1990), codified at 47 U.S.C. § 225; see also 47 U.S.C. § 225(b)(1). "Telecommunications Relay Services" are defined as "telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio." 47 U.S.C. § 225(a)(3).

<sup>5</sup> See *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Report and Order and Request for Comments, 6 FCC Rcd 4657 (1991) (*TRS I Order*).

<sup>6</sup> See *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802 (1993) (*TRS II Order*).

<sup>7</sup> See *Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, Third Report and Order, 8 FCC Rcd 5300 (1993) (*TRS III Order*).

<sup>8</sup> *Id.*, 8 FCC Rcd at 5302. This rule is codified at 47 C.F.R. § 64.604(iii)(A), which provides, in relevant part: "Every carrier providing interstate telecommunications services shall contribute to the TRS Fund on the basis of interstate end-user telecommunications revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to . . . satellite [and] international . . . services." 47 C.F.R. § 64.604(iii)(A).

<sup>9</sup> See Letter from Howard D. Polsky, COMSAT World Systems, to National Exchange Carrier Association, dated September 24, 1993 (First Contribution Letter).

<sup>10</sup> See *Petition for Declaratory Ruling that the Provision of INTELSAT Space Segment by COMSAT is not an Interstate Service for Purposes of the TRS Fund*, Petition for Declaratory Ruling, filed April 29, 1994, at 7-8, n.7 (Petition) (tariff filing defines "space segment" as "that portion of an international communications link which consists of the receipt and amplification of a [sic] uplink carrier from an earth terminal and/or the downlink beam"); Application for Review at 5-6; *Federal-State Joint Board on Universal Service, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, and 95-72, Fourth Order on Reconsideration in CC Docket

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letter, COMSAT stated that, although it was submitting a contribution to avoid penalties, it believed that its service did not qualify as an interstate telecommunications service, that it was therefore was not subject to TRS Fund contribution requirements, and that it intended to file a petition for declaratory ruling with the Commission.<sup>11</sup> COMSAT further stated that it reserved the right to obtain reimbursement of its contribution upon a favorable resolution of its petition.<sup>12</sup>

4. On April 24, 1994, COMSAT filed a petition for declaratory ruling with the Commission, seeking a ruling that COMSAT's provision of space segment capacity to United States interexchange carriers was not subject to TRS Fund contribution requirements, and requesting a refund of COMSAT's prior contributions based on the provision of such services.<sup>13</sup> COMSAT argued that, pursuant to statute and Commission rules, contributions to the TRS Fund were based solely on revenues from the interstate portion of telecommunications services.<sup>14</sup> It asserted that its provision of space segment capacity (*i.e.*, providing a satellite link to an earth-based station) was a service that did not include any interstate portion, and that the Commission should therefore declare that it did not have TRS Fund obligations for the provision of such services and reimburse its prior contributions.<sup>15</sup>

5. On February 15, 1995, the Bureau issued a letter denying the Petition and concluding that COMSAT was subject to the TRS Fund contribution requirement for the provision of such services.<sup>16</sup> Addressing COMSAT's argument that its satellite service did not include an "interstate component," the Bureau first noted that section 64.604(c)(4)(iii) of the Commission's rules specifically provides that "[c]ontributions shall be made by all carriers who provide interstate services, including . . . satellite [and] international . . . services."<sup>17</sup> The Bureau further noted that the Commission, in the *TRS III Order*, had specifically held that *international* telecommunications services should be subject to TRS contributions, and that the TRS Fund Worksheet instructions specifically required carriers to include international revenues in the interstate category when calculating TRS Fund contributions.<sup>18</sup> The Bureau concluded that, for purposes of TRS Fund contributions, even a purely international service, without any interstate link, should be considered an interstate service and that providers of such a service must therefore contribute to the TRS Fund.<sup>19</sup>

6. On March 15, 1995, COMSAT timely filed the pending Application for Review

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No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318, 5479, para. 290 (1997) (*Fourth Order on Reconsideration*).

<sup>11</sup> First Contribution Letter at 1-2.

<sup>12</sup> *Id.* at 2.

<sup>13</sup> *Petition for Declaratory Ruling that the Provision of INTELSAT Space Segment by COMSAT is not an Interstate Service for Purposes of the TRS Fund*, Petition for Declaratory Ruling, filed April 29, 1994 (Petition).

<sup>14</sup> Petition at 4-6 (citing 47 U.S.C. § 225(d)(3) and 47 C.F.R. § 64.604(c)(4)(iii)).

<sup>15</sup> *Id.* at 1-2, 6-9.

<sup>16</sup> See Bureau Decision.

<sup>17</sup> *Id.* at 1 (quoting 47 C.F.R. § 64.604(c)(4)(iii)).

<sup>18</sup> *Id.* (citing *TRS III Order*, 8 FCC Rcd at 5301-02).

<sup>19</sup> *Id.* at 2.

of the Bureau Decision.<sup>20</sup> In its Application for Review, COMSAT reiterated and elaborated on its position that its service lacked any “interstate component” and was therefore not an interstate telecommunications service subject to TRS Fund requirements.<sup>21</sup> It asserted that the Bureau had ignored its “fundamental argument” that section 64.604(c)(4)(iii)’s reference to “international” and “satellite” services was intended to apply only to “end-to-end offerings.”<sup>22</sup>

7. While COMSAT pursued administrative remedies, it continued to make timely contributions to the TRS Fund each year, for a total contribution between 1993 and 1998 of \$503,201.51.<sup>23</sup> With its 1994, 1995, 1996 and 1997 contributions, COMSAT submitted letters reiterating its position that it was not subject to the contribution requirements, and that its contribution was not intended to indicate the contrary.<sup>24</sup>

8. In 1997, the Commission issued the *Fourth Order on Reconsideration*, which, *inter alia*, addressed the obligations of providers of satellite services to contribute to the universal service fund established pursuant to 47 U.S.C. § 254(d).<sup>25</sup> Section 254(d) provides in part that “[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.”<sup>26</sup> In the *Fourth Order on Reconsideration*, the Commission held that satellite providers that provide interstate telecommunications services and interstate telecommunications must contribute to universal service.<sup>27</sup> It found, however, that satellite providers that merely leased bare “transponder capacity,” a term used interchangeably with “space segment capacity,” were not required to contribute.<sup>28</sup> Accepting the description of this service as one that merely “provide[s] the customer with the exclusive right to transmit to a *specific piece of hardware on the satellite*,” the Commission found that the providers of such a service “do not transmit information when they lease bare transponder capacity.”<sup>29</sup> Because the service did not, therefore,

<sup>20</sup> Application for Review.

<sup>21</sup> *Id.* at 4-6.

<sup>22</sup> *Id.* at 3-4.

<sup>23</sup> Specifically, COMSAT contributed \$62,943 on April 26, 1994, \$50,002.69 on April 25, 1995, \$72,922.74 on April 23, 1996, \$132,669.20 on April 22, 1997, and \$85,445.88 on April 23, 1998. See Letter from Keith H. Fagan, COMSAT World Systems, to James Keegan, Federal Communications Commission, and Richard Askoff, National Exchange Carrier Association, dated April 26, 1994; Letter from Robert Mansbach, COMSAT World Systems, to National Exchange Carrier Association, dated April 25, 1995; Letter from Robert Mansbach, COMSAT World Systems, to National Exchange Carrier Association, dated April 23, 1996; Letter from Robert Mansbach, COMSAT World Systems, to National Exchange Carrier Association, dated April 22, 1997; Letter from Robert Mansbach, COMSAT World Systems, to National Exchange Carrier Association, dated April 23, 1998.

<sup>24</sup> See *supra*, note 23.

<sup>25</sup> *Fourth Order on Reconsideration*, 13 FCC Rcd at 5479, para. 290.

<sup>26</sup> 47 U.S.C. § 254(d).

<sup>27</sup> *Fourth Order on Reconsideration*, 13 FCC Rcd at 5478, para. 288.

<sup>28</sup> *Id.* at 5479, para. 290, n. 847 (“satellite companies [that lease bare transponder capacity] make available and maintain the network component consisting of a repeater at the spacecraft. . . . The space segment user must configure and manage the transmission path for itself”) (alteration in original) (quoting GE Americom petition at 10).

<sup>29</sup> *Id.* (emphasis in original) (quoting PanAmSat comments at 4).

constitute telecommunications under the statutory definition, and because only providers of interstate telecommunications services or interstate telecommunications were required to contribute to the universal service fund, the Commission concluded that providers of leased bare transponder capacity were not required to contribute.<sup>30</sup>

9. On February 9, 1999, COMSAT filed a supplement to its pending Application for Review, arguing that, because TRS contributions are based on the revenues from interstate telecommunications services, the Commission's determination that leased transponder capacity did not constitute telecommunications provided another reason why COMSAT was not required to contribute to the TRS Fund.<sup>31</sup>

10. On July 14, 1999, the Commission incorporated the decision reached in the *Fourth Order on Reconsideration* into the revenue reporting form, referred to as the Telecommunications Reporting Worksheet, used by carriers to report the interstate telecommunications revenues on which their contribution obligations to the universal service and TRS funds, among others, would be based.<sup>32</sup> The instructions to the reporting form expressly stated that satellite carriers should not report revenues from the lease of bare transponder capacity in the contribution base.<sup>33</sup>

## II. DISCUSSION

11. Before reaching the substantive issues before us, we address procedural issues raised by COMSAT's Application for Review Supplement. Section 1.115(c) of our rules bars a party from presenting questions of law in an application for review that it did not raise in its pleading below.<sup>34</sup> In its initial Petition, COMSAT only argued that its service was not an interstate service.<sup>35</sup> Because it did not argue before the Bureau that the service did not qualify as telecommunications or a telecommunications service, section 1.115(c) would ordinarily act as a bar to raising the argument now. In addition, COMSAT failed to raise the argument in its original Application for Review, presenting it only in the supplement that was filed in 1999, long after the time for filing such supplements had expired.<sup>36</sup>

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<sup>30</sup> *Id.* at paras. 290-91.

<sup>31</sup> Letter from Robert Mansbach, COMSAT Corporation, to Federal Communications Commission, filed February 5, 1999 (Application for Review Supplement).

<sup>32</sup> See *In The Matter Of 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated With Administration Of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, And Universal Service Support Mechanisms*, FCC 99-175, 1999 WL 492955 (rel. July 14, 1999).

<sup>33</sup> *Id.*, Instructions for Line (213) and Line (228) ("Revenues derived from the lease of bare transponder capacity should not be included in Lines (213) and (228).").

<sup>34</sup> 47 C.F.R. § 1.115(c).

<sup>35</sup> See Petition.

<sup>36</sup> See, e.g., *BDPCS, Inc.*, 15 FCC Rcd 17590, 17596-97 (2000) (supplements to application for review that are not filed within 30 days of public notice of the Commission's action on delegated authority and which raise matters on which the delegated authority has not had an opportunity to consider are procedurally deficient and warrant dismissal on their face).

12. We have authority, however, to consider COMSAT's argument that its service did not constitute telecommunications or a telecommunications service on our own motion.<sup>37</sup> In particular, the Commission has previously noted that it may use the pendency before it of a timely petition filed by a party as a basis for considering on the Commission's own motion arguments belatedly raised by the party.<sup>38</sup> That circumstance is present here. COMSAT filed a timely application for review of the Bureau Decision. In addition, COMSAT reiterated its position when it submitted its TRS payments. Further, because the legal question of whether leased space segment is telecommunications has already been presented to and resolved by the full Commission, applying that ruling here is straightforward, consistent with the policy of not addressing arguments that have not previously been reviewed, and, as set forth below, clearly dispositive of the pending matter. By contrast, were we to ignore this issue, we would have to reach the legal question of whether COMSAT's lease of transponder capacity should be deemed an "interstate" service. We therefore exercise our discretion to consider the "telecommunications"/ "telecommunications service" argument.

13. Turning to the merits of COMSAT's Application for Review, the lease of bare space segment capacity can not constitute a "telecommunications service," because the Commission previously determined that it is not "telecommunications" and does not involve the transmission of information.<sup>39</sup> Section 64.604(c)(5)(iii)(A) of the Commission's rules states that "[e]very carrier providing interstate telecommunications services shall contribute to the TRS Fund on the basis of interstate end user telecommunications revenues."<sup>40</sup> In the *TRS III Order*, we explained this rule by stating that "[o]ur general approach is to identify all *interstate common carrier services* and to assess a contribution factor against the revenues from *those services*."<sup>41</sup> Although the Act did not define "common carrier services" at that time, section 225, which governs TRS services, defines "common carrier," in relevant part, as "any common carrier engaged in interstate communication by wire or radio as defined in section 3 . . . ."<sup>42</sup> Section 3, in turn, defines "communication by radio" as "the *transmission* by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services . . . incidental to such transmission."<sup>43</sup>

14. Applying these definitions to the facts at hand, we find that, leasing bare space segment capacity, under these circumstances, does not constitute a common carrier service,

<sup>37</sup> 47 C.F.R. § 1.117(a); see, e.g., *In re Applications of Portland Cellular Partnership Northeast Cellular Telephone Company, L.P.*, FCC 94-176, para. 6 (rel. June 29, 1994) (*Portland Cellular*).

<sup>38</sup> *Portland Cellular*, para. 4.

<sup>39</sup> See 47 U.S.C. 153(3) (telecommunications service means offering telecommunications for a fee directly to the public); see also *Fourth Order on Reconsideration* at 5479, para. 290. The terms "telecommunications" and "telecommunications service" were not defined in the Act when COMSAT made most of the TRS contributions in question. Accordingly, our decision is guided by rules and terms, such as "common carrier," that were defined in the Act prior to 1996.

<sup>40</sup> 47 C.F.R. § 64.604(c)(5)(iii)(A).

<sup>41</sup> *TRS III Order*, 8 FCC Rcd at 5303, para. 14. (emphasis added).

<sup>42</sup> 47 U.S.C. § 225; see also 47 C.F.R. § 64.601(4).

<sup>43</sup> 47 U.S.C. § 153(33) (emphasis added). We note that, prior to 1996, this definition was found at section 3(a) rather than section 3(33). See 47 U.S.C.A. § 153. Historical Notes – Historical and Statutory Notes. However, the substance of the definition has been the same at all times that COMSAT was paying into the TRS fund. *Id.*

because the satellite operator “merely provid[es] its *customer* with the exclusive right to transmit to a specified piece of hardware on the satellite.”<sup>44</sup> Therefore, entities, including COMSAT, are not required to include revenues derived from leasing bare space segment capacity in determining their TRS contributions. This would normally end our inquiry and the refunds in issue could be ordered.

15. But because Congress mandated that COMSAT be regulated as a common carrier pursuant to section 401 of the Communications Satellite Act of 1962 (Satellite Act),<sup>45</sup> a question exists about COMSAT’s eligibility for refunds. All of the services COMSAT provides, even though some or all of them may involve the leasing of bare space segment capacity, are regulated as common carrier (i.e., telecommunications) services under Title II of the Act. Does this fact mean that revenues from COMSAT’s lease of bare space segment capacity, which is treated as common carriage due to section 401 of the Satellite Act, must be included in COMSAT’s TRS contribution calculations? For the reasons given below, we conclude that section 401 does not require that COMSAT include revenues derived from leasing bare space segment capacity in determining its TRS contributions.

16. The Satellite Act authorized the formation of COMSAT and generally tasked it with the establishment of a single global telecommunications satellite system, which came to be known as INTELSAT.<sup>46</sup> The Commission, in turn, was generally tasked by Congress to oversee COMSAT’s implementation of the Satellite Act.<sup>47</sup> Section 401 makes clear that the Commission was to exercise its statutory authority under the Communications Act to assure that COMSAT carried out the obligations imposed on it by Congress. The Commission was also to ensure “nondiscriminatory use of, and equitable access to” INTELSAT space segment “under just and

<sup>44</sup> *Fourth Order on Reconsideration*, 13 FCC Rcd at 5479, para. 290. (emphasis added). We note that the Commission’s decision that the lease of bare space segment capacity does not warrant contributions to the universal service and TRS funds is based upon the accuracy of the uncontested representations of satellite providers of what is involved in the lease of bare transponder capacity. *Id.* The Commission stated that it might reconsider its determination if presented with different factual evidence. *Id.* We further stress here that the regulatory status of services for reasons other than contributions will continue to be determined on the basis of the application of the decision in *National Association of Regulatory Utility Commissioners v. FCC*, 525 F. 2d 630 (D.C. Cir. 1976) (*NARUC I*), which sets forth a two-pronged test for making determinations regarding regulation as a common carrier.

<sup>45</sup> See 47 U.S.C. § 741 (“[t]he Corporation shall be deemed a common carrier within the meaning of section 3(h) of the Communication Act of 1934, as amended, and as such shall be fully subject to the provisions of title II and title III of that Act”). This provision will be terminated upon a Commission determination that INTELSAT has privatized in accordance with the requirements of the ORBIT Act, 47 U.S.C. § 765d(4). The Commission will be able to make that determination when the privatized INTELSAT demonstrates that it held an IPO pursuant to the ORBIT Act, 47 U.S.C. § 763(2). The question of whether there is a need to regulate all or some of COMSAT’s services would be determined based upon application of the decision in *NARUC I*. See *Applications of Intelsat LLC For Authority to Operate, and to Further Construct, Launch, and Operate C-band and Ku-band Satellites that Form a Global Communications System in Geostationary Orbit*, File Nos. SAT A/O-20000119000002 to SAT A/O-20000119-00018; SAT-AMD-20000119-00029 to SAT-AMD-20000119-00041; SAT-LOA-20000119-00019 to SAT-LOA-20000119-00028, Memorandum Opinion, Order and Authorization, 16 FCC Rcd 12280, 12300-12303 (2001), applying *NARUC I* test in deciding whether to impose common carrier regulation upon the privatized INTELSAT when it became a Commission licensee.

<sup>46</sup> See 47 U.S.C. §§ 731 and 701.

<sup>47</sup> See 47 U.S.C. § 721(c).

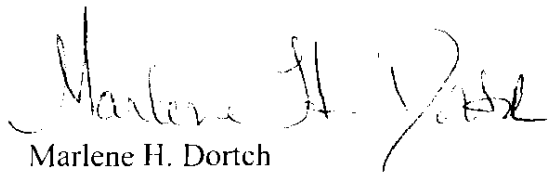
reasonable charges, classifications, practices, regulations, and other conditions."<sup>48</sup> The common carrier regulation implemented pursuant to authority of section 401 over services COMSAT provides (even those such as lease of bare space segment capacity) afforded an effective and proven means to oversee COMSAT's special role and further the goals of the Satellite Act.

17. By contrast, a decision to treat COMSAT's lease of bare space segment capacity as common carriage (telecommunications service) for the purpose of contributions to the TRS Fund, does not even pertain to COMSAT's special role or advance any goals of the Satellite Act. Therefore, it would be unreasonable to read into section 401 or any other Satellite Act provision a requirement that the contributions in issue be made to the TRS Fund. Because COMSAT's TRS contributions, paid under protest subject to the pending challenge, were not, in fact, required by the Communications Act, Satellite Act, or the Commission's rules, we grant COMSAT's request for a refund and direct NECA to refund the full amount of COMSAT's prior contributions based on the provision of leased bare space segment capacity.<sup>49</sup>

18. ACCORDINGLY, IT IS ORDERED, pursuant to section 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(5), and section 1.115 of the Commission's rules, 47 C.F.R. § 1.115, that the Application for Review filed on March 17, 1995 by COMSAT Corporation, through its business unit, COMSAT World Systems, IS GRANTED.

19. IT IS FURTHER ORDERED that NECA refund to COMSAT World Systems its contributions to the Telecommunications Relay Services fund in the amount of \$503,201.51.<sup>50</sup>

FEDERAL COMMUNICATIONS COMMISSION



Marlene H. Dortch  
Secretary

<sup>48</sup> See 47 U.S.C. § 721(c)(2).

<sup>49</sup> Cf. *National Association of Broadcasters v. Federal Communications Commission*, 554 F.2d 1118, 1129 (D.C. Cir. 1976) (finding "it would be improper to allow the Commission to retain money illegally exacted and paid involuntarily and under protest.").

<sup>50</sup> We note that Intelsat USA License Corp. has acquired COMSAT and is now the successor-in-interest for any claims arising from COMSAT's petition. Accordingly, we authorize NECA to provide the refund to COMSAT's successor-in-interest. See Letter from Danny E. Adams and Andrea P. Edmonds, Kelley Drye & Warren to Marlene H. Dortch, Federal Communications Commission, dated March 10, 2003.